

Applicant(s): Ghose, et al.	
Application No.: 10/695,889	Group Art Unit: 2114
Filed: 10/23/2003	Examiner: Gabriel L. Chu
Title: Failure Analysis Method and System for Storage Area Networks	
Attorney Docket No.: 00121-0000700000	

REMARKS

Applicants wish to thank the Examiner for his telephonic interview March 5, 2007. Per our discussion, we believe the claims as presented are in condition for allowance.

In particular, the Examiner rejected claims 30 and 31 under 35 USC 112, second paragraph. The dependency of the claims as currently amended has been modified such that claims 30 and 31 each depend from claim 29. Accordingly, Applicants respectfully request withdrawal of this rejection.

Additionally, the Examiner also rejected claim 33 and claim 34 under 35 USC 101 as directed to non-statutory subject matter. Both claim 33 and claim 34 are each identified as apparatus and therefore fall under 35 USC 101 which specifies patentable subject matter as including "any new and useful process, machine, manufacture, or composition of matter." In fact, courts have found that patent claims stated in "means-plus function" terms correspond to machines and therefore proper statutory subject matter under 35 USC 101. *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 47 USPQ2d 1596 (Fed. Cir. 1998). Applicants respectfully submit that use of means plus function language consistent with 35 USC 112 paragraph 6 does not *remove* claim 33 and claim 34 from this status but helps *clarify* these claim as proper statutory subject matter. Accordingly, Applicants respectfully request the Examiner withdraw this rejection under 35 USC 101 and allow the claims as currently amended and filed.

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Additionally, the Examiner indicated claims 5, 17, 22, and 32 were allowable. Accordingly, Applicants incorporated one or more of claims 5, 17, 22, and 32 directly or indirectly into claims 1, 12, 18, 27, 33, 34, and 35. Applicants respectfully submit that the claims as filed herewith are in condition for allowance and would respectfully request allowing the claims.

Claim 36 has been added and is also believed to be in condition for allowance. No new matter has been added.

For at least these reasons, independent claims 1, 12, 18, 27, 33, 34, 35 and 36 as currently filed are in condition for allowance. Dependent claims 2-4, 6-11, 13-16, 19-21, 23-26, 28-32 are allowable independently as well as by virtue of their direct or indirect dependency on claims 1, 12, 18, 27, 33, 34, and 35.

Applicants have made a diligent effort to place the aforementioned claims in condition for allowance. Accordingly, Applicants respectfully request a withdrawal of the rejections and immediate allowance of claims 1-36. Of course, should there remain unresolved issues or the Examiner believes a discussion appropriate, it is respectfully requested that the Examiner telephone Leland Wiesner, Applicants' Attorney at (650) 853-1113 so that such issues may be resolved as expeditiously as possible.

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For these reasons, and in view of the above remarks, this application is now considered to
be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



03/21/2006
Date

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